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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,498	05/01/2001	Noribumi Koitabashi	684.3183	2379
5514	7590	09/08/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			NGUYEN, THINH H	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

2861  
DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/845,498	Applicant(s) KOITABASHI ET AL.	
	Examiner Thinh H Nguyen	Art Unit 2861	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9, 13-15, 17-19, 21, 23, 24, 28-31, 34, 35, 39-42, 45, 46 and 48-50 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-9, 13-15, 17-19, 21, 23, 24, 28-31, 45, 46 and 48-50 is/are allowed.
- 6) ☒ Claim(s) 34, 35 and 39-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 34-35, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murcia et al. in view of Hermanson. (U.S. 5,581,284)

Murcia et al. teach the instant claimed printing apparatus and method of correcting (characterized by correction module 76) and compensating nozzles failure except for printing the black ink in substitution for the non-operative nozzles corresponding to non-black color recording ink.

Hermanson teaches detecting the problem nozzle and compensating the missing dot corresponding to the problem nozzle with ink of different color. For example, black ink can be filled in for missing cyan or magenta droplets (col.5, lines 18-23). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the missing non-black color ink with the black color ink in Murcia et al. as taught by Hermanson for preventing the missing spot and providing adequate printing quality.

### ***Allowable Subject Matter***

3. Claims 1-3,5-9,13-15,17-19,21,23,24,28-31,45,46 and 48-50 are allowed.

***Response to Amendment***

4. Applicant's Amendment filed June 10, 2004 has been entered and carefully considered.

Applicant contends (page 13-14) that Hermanson as combined failed to teach/suggest effecting the plurality of supplementing recording with a recording element for black color recording, for a recording position corresponding to the non-operating recording elements for non-black color recording as recited in claims 34, 39.

The Examiner agreed that Hermanson discloses compensating missing black ink with either cyan or cyan and magenta, or process black ink. However, the reading at column 5, lines 18-23 does not purportedly implicated that that missing cyan or magenta droplets will be replaced by black process ink droplet. In fact, column 2, lines 27-28, Hermanson clearly stated that black ink may be used to fill in missing cyan or magenta droplets.

In view of the foregoing reasons, the examiner asserts that all limitations have been properly evaluated and that the rejection as applied remains proper.

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION

FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

***Contact Information***

Any inquiry concerning this communication should be directed to examiner Tinh Nguyen at telephone number (571) 272-2257. The examiner can generally be reached Mon-Wed, Friday from 9:00A – 5:00P. Thursday at telephone number (571) 440-1447. The official fax phone number for the organization is (703) 872-9306.

The examiner supervisor, Stephen Meier, can also be reached at (571) 272-2149.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1782.



Tinh Nguyen

August 31, 2004

**Tinh Nguyen  
Primary Examiner  
Technology Center 2800**